

JAMES ANTHONY SPARKS)
)
Petitioner,)
)
v.) No.: 4:11-cv-10
) *Judge Mattice*
)
STATE OF TENNESSEE,)
THE ATTORNEY GENERAL FOR)
THE STATE OF TENNESSEE,)
and LEE POSEY DANIEL, Warden)
)
Respondents.)

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Petitioner is confined in the Elmore Correctional Facility in Elmore, Alabama. According to petitioner, he is serving a 20-year sentence on an Alabama conviction for first degree robbery and first degree assault that was imposed October 1, 2001. He alleges that the State of Tennessee issued a warrant for his arrest for violation of probation, but rather than serve the warrant, the State of Tennessee lodged a detainer with the State of Alabama which remains pending. Petitioner alleges he has a right to a speedy disposition of the pending detainer and asks this court to order the State of Tennessee to transport him to Tennessee for a hearing on revocation of probation.

The Attorney General moves to dismiss the petition for the reason that petitioner has not stated a federal claim. This court agrees. "In conducting habeas review, a federal court is limited to deciding whether a conviction violated the Constitution, laws, or treaties of the United States." *Estelle v. McGuire*, 502 U.S. 62, 68 (1991).

In *Grizzell v. Tennessee*, 601 F. Supp. 230 (M.D. Tenn.), *appeal dismissed*, 746 F.2d 1476 (6th Cir. 1984), the district court held that "[t]he rights created by [the Interstate Agreement on Detainers] 'are statutory, not fundamental, constitutional, or jurisdictional in nature.'" *Id.* at 231 (quoting *Greathouse v. United States*, 655 F.2d 1032, 1034 (10th Cir. 1981)). The United States Court of Appeals for the Sixth Circuit has repeatedly held that a violation of the Interstate Agreement on Detainers is not a basis for federal habeas corpus relief under § 2254. *See, e.g., Browning v. Foltz*, 837 F.2d 276, 283 (6th Cir. 1988); *Metheny v. Hamby*, 835 F.2d 672, 674 (1987).

In *Bracey v. Tennessee*, 616 F.2d 268 (6th Cir. 1980), the Sixth Circuit specifically held that the Interstate Agreement on Detainers does not give a district court the authority to order Tennessee prison officials to disregard an Alabama detainer nor does it give a district court the authority to order Alabama officials to withdraw such a detainer. Similarly, this court lacks authority to order the State of Tennessee to transport petitioner back to Tennessee for a revocation hearing or to order the State to withdraw the detainer.

Accordingly, this court lacks jurisdiction to grant petitioner the relief he seeks and the motion to dismiss will be **GRANTED**. The petition for habeas corpus relief will be **DENIED** and this action **DISMISSED**. A certificate of appealability **SHALL NOT ISSUE**. 28 U.S.C. § 2253(c); Rule 22(b) of the Federal Rules of Appellate Procedure. The court will **CERTIFY** that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Rule 24 of the Federal Rules of Appellate Procedure. The court will further **DENY** petitioner leave to proceed *in forma pauperis* on appeal.

AN APPROPRIATE ORDER WILL ENTER.

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE